

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

THE GROUND ROUND INDEPENDENT  
OWNERS COOPERATIVE, LLC,

*Plaintiff,*

- vs. -

Civil Action No.: 05-CV-10780-NMG

CHARLES WHITMAN a.k.a. Chuck  
Whitman, C.T.W. DEVELOPMENT  
CORPORATION, RESTAURANT  
CONCEPTS UNLIMITED CORPORATION,

*Defendants.*

**REQUEST TO ENTER DEFAULT JUDGMENT PURSUANT TO RULE 55(b)(1)**

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF  
MASSACHUSETTS:

The Ground Round Independent Owners Cooperative, LLC (the "IOC"), requests that the Clerk of this Court enter a default judgment for a sum certain against Restaurant Concepts Unlimited Corporation pursuant to Fed. R. Civ. P. 55(a). In support of this request, the IOC states:

1. The Clerk of this Court may enter the default of Restaurant Concepts Unlimited Corporation as a consequence of its failure to timely plead or otherwise respond in this action.
2. The claim asserted against Restaurant Concepts Unlimited Corporation in Count I of the complaint for breach of contract is for a sum certain or a sum, that by computation, may be made certain within the meaning of Fed. R. Civ. P. 55(b)(1).
3. The claim in Count I of the complaint is for \$145,500 owed to the IOC as a direct and proximate result of Restaurant Concepts Unlimited Corporation's breaches under the contract.

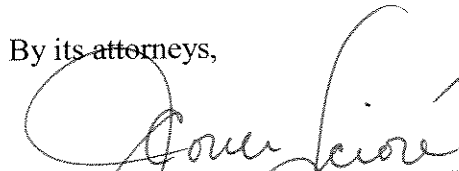
4. On information and belief, Restaurant Concepts Unlimited Corporation is a limited liability company organized under the laws of the State of Ohio with its principal office in Boardman, Ohio.
  5. On information and belief, Restaurant Concepts Unlimited Corporation is not a minor or an incompetent person.
  6. On information and belief, Restaurant Concepts Unlimited Corporation is not in military service.
  7. The amount of the judgment to be entered, as indicated above, is justly due and owing.
- WHEREFORE, the IOC requests that the Clerk of this Court enter default judgment against Restaurant Concepts Unlimited Corporation pursuant to Fed. R. Civ. P. 55(b)(1).

Signed under penalties of perjury.

Respectfully Submitted,

THE GROUND ROUND INDEPENDENT  
OWNERS COOPERATIVE, LLC,

By its attorneys,



Juan Alexander Concepción, BBO No. 658908  
NIXON PEABODY LLP  
100 Summer Street  
Boston, MA 02110-2131  
(617) 345-1000

Craig R. Tractenberg, Esq. (PA I.D. No. 34636)  
(Admission *Pro Hac Vice* to be filed)  
NIXON PEABODY LLP  
1818 Market Street, 11<sup>th</sup> Floor  
Philadelphia, PA 19103  
(215) 246-3525

Dated: May 18, 2005

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

THE GROUND ROUND INDEPENDENT  
OWNERS COOPERATIVE, LLC,

*Plaintiff,*

- vs. -

Civil Action No.: 05-CV-10780-NMG

CHARLES WHITMAN a.k.a. Chuck  
Whitman, C.T.W. DEVELOPMENT  
CORPORATION, RESTAURANT  
CONCEPTS UNLIMITED CORPORATION,

*Defendants.*

**AFFIDAVIT IN SUPPORT OF REQUEST TO ENTER DEFAULT JUDGMENT  
PURSUANT TO RULE 55(b)(1)**

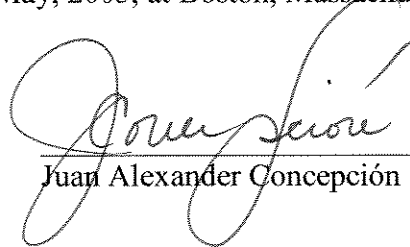
Juan Alexander Concepcion, being duly sworn, deposes and states:

1. My name is Juan Alexander Concepción. I am over 18 years of age.
2. I am an associate with the law firm of Nixon Peabody LLP, 100 Summer Street, Boston, Massachusetts 02110 and am duly admitted to practice law in the Commonwealth of Massachusetts and before this Court. I am fully competent to make this affidavit and I have personal knowledge of the facts stated in this affidavit.
3. I am an attorney of record for The Ground Round Independent Owners Cooperative, LLC (the "IOC"), Plaintiff in this action.
4. On information and belief, Restaurant Concepts Unlimited Corporation is a limited liability company organized under the laws of the State of Ohio with its principal office in Boardman, Ohio.
5. On information and belief, Restaurant Concepts Unlimited Corporation is not an infant or an incompetent person.

6. On information and belief, Restaurant Concepts Unlimited Corporation is not in military service.

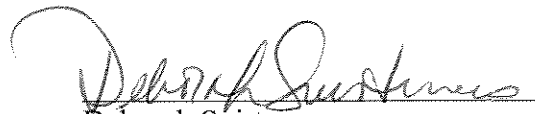
7. The claim asserted against Restaurant Concepts Unlimited Corporation in Count I of the complaint for breach of contract is for a "sum certain" or a sum that may be made certain within the meaning of Fed. R. Civ. P. 55(b)(1). The claim is for \$145,500 owed to the IOC as a direct and proximate result of Restaurant Concepts Unlimited Corporation's breaches under the contract.

Signed by me on this 18th day of May, 2005, at Boston, Massachusetts.



Juan Alexander Concepción

SUBSCRIBED AND SWORN TO BEFORE ME on this 18th day of May, 2005, at Boston, Massachusetts.



Deborah Svirtunas  
Notary Public in and for the Commonwealth of  
Massachusetts  
Commission expires: December 17, 2010